IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5529 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRATHMESH FARMS PVT LTD - Petitioner(s)
Versus
STATE OF GUJARAT & 10 - Respondent(s)

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Appearance :

MR AJ PATEL for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 3,8 - 9.
MR MA KHARADI for Respondent(s) : 2 - 3.
MR SP MAJMUDAR for Respondent(s) : 4 - 7,10 - 11.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 21/04/2006

ORAL JUDGMENT

1. Rule. Shri Dipen Desai, learned AGP waives service of rule on behalf of the respondent No.1 and Shri M.A.Kharadi, learned advocate waives

service of rule on behalf of the private respondents. With the consent of the learned advocates for the parties, the matter is taken up for final hearing today.

2. It is the contention on behalf of the petitioner that they are the purchasers of the land in question on the basis of the registered sale deed dated 3.6.2000 and subsequently thereto the respondent Nos.3 to 11 herein have sold the said land in question in favour of the respondent NO.2 for which a registered sale deed came to be executed on 13.6.2001 and the entry to that effect has been mutated in the revenue record which is the subject matter of challenge in the present special civil application. Shri A.J.Patel, learned advocate appearing on behalf of the petitioner has submitted that Civil Suit being Regular Civil Suit No.199 of 2001 is pending before the learned Civil Judge (SD), Surat with respect of the land in question and

injunction below Exh.5 is also granted by the learned Trial Court and in the said suit, the petitioner has prayed for a declaration and permanent injunction. It is also contention on behalf of the petitioner that subsequently, during the pendency of the said suit, the original land owners - the respondent Nos.4 to 11 have sold the land in question in favour of the respondent No.2 herein by registered sale deed and that even the original land owners have also challenged the sale in favour of the respondent No.2 herein. It is also contention on behalf of the petitioner that with regard to the land in question, there is an injunction in their favour , necessary entry ought to have been made in the revenue record with regard to pendency of the suit with respect to the land in question and that, injunction granted by the learned trial court passed below Exh.5 in Regular Civil Suit No.199 of 2001.

3. Considering the fact that at present there is registered sale deed in favour of the respondent No.2 and unless and until it is set aside, necessary entry is required t be mutated in the record of right reflecting the said sale deed. However, at the same time, necessary additional entry with regard to the order passed by the learned Civil Judge (SD), Surat is also required to be mutated in the revenue record. Under the circumstances, while disposing the special civil application, the revenue authorities are directed that while continuing the entry in favour of the respondent No.2, an additional entry be also made that there is injunction and/or interim order passed by the learned Civil Judge (S.D.), Surat dated 7.5.2002 passed below Exh.5 passed in Regular Civil Suit No.199 of 2001. Subject to aforesaid modification, the rest of the order passed by the learned Principal Secretary (Appeals), Revenue Department dated 27.1.2006 passed in Revision Application No.MVV / HKP / ST/

84 of 2005 is hereby confirmed. With aforesaid observations and directions, the present special civil application stands disposed of accordingly.

4. Rule is made absolute to the aforesaid extent. However, there shall be no order as to costs.

[M.R.Shah, J.]

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